

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Eric Vogt,  
Plaintiff

v.

Case No. 1:11-cv-557

Ohio State Medicaid Spend  
Down Program,  
Defendant

**ORDER**

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed August 29, 2011 (Doc. 5).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Plaintiff's federal law claims are **DISMISSED WITH PREJUDICE**. The Court declines to exercise pendent jurisdiction over plaintiff's state law claims and dismiss these claims **WITHOUT PREJUDICE** to refiling in state court.

This Court certifies that pursuant to 28 U.S.C. § 1915(a) an appeal of this Order would not be taken in good faith, and therefore **DENIES** plaintiff leave to appeal *in forma pauperis*. *See Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999),

overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997).

Date: September 26, 2011

s/Sandra S. Beckwith  
Sandra S. Beckwith, Senior Judge  
United States District Court